

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,	:	
PLAINTIFF,	:	CASE NO. 1:01-cv-729
	:	
V.	:	
	:	
CONTENTS OF ACCOUNT NUMBER	:	JUDGE DLOTT
400039 [REDACTED], IN THE NAME OF UNITY	:	
WHOLESALE GROCERY U.W.G., AT	:	
COMMUNITY TRUST BANK, N.A.,	:	
LEXINGTON, KENTUCKY, et al.,	:	
DEFENDANTS.	:	
	:	

MOTION TO DISMISS

The United States, by and through the undersigned Assistant United States Attorney for the Southern District of Ohio, respectfully requests that the Court enter an Order, pursuant to Fed.R.Civ.P. 41(a)(2), dismissing this civil forfeiture action without prejudice.

This civil case was filed as a parallel action to a criminal case in the United States District Court, Eastern District of Kentucky, titled, U.S. v. Tareq Shalash, et al., Defendants, Case number 01-93-KSF. The defendants named in this case were also named for forfeiture in the criminal indictment, and have been ordered forfeited. See attached, "Exhibit A," Order dated January 31, 2003. The defendants in the criminal case appealed their convictions to the Sixth Circuit, U.S. Court of Appeals. The Sixth Circuit upheld the judgments and convictions in *U.S. v. Shalash*, Nos. 03-5037, 03-5038, 03-5210 and 03-5211, 2004 WL 1801347 (6th Cir. August 11, 2004).

Therefore, the United States respectfully requests that the Court enter the proposed order

dismissing this civil forfeiture action without prejudice because the defendants in this action have been forfeited in the criminal case in the United States District Court, Eastern District of Kentucky.

Respectfully submitted,

GREGORY G. LOCKHART
United States Attorney

s/Donetta D. Wiethe
DONETTA D. WIETHE (0028212)
Assistant United States Attorney
Attorney for Plaintiff
221 East Fourth Street, Suite 400
Cincinnati, Ohio 45202
(513) 684-3711
Fax: (513) 684-6972
Donetta.Wiethe @usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss was served by regular U.S. Mail on this 3rd day of December, 2004 upon the following:

Robert W. Dibert
Kenneth J. Tuggle
Kimberly Blodgett
Robert C. Webb
Frost Brown Todd LLC
400 West Market Street, 32nd Floor
Louisville, KY 40202

E. Lambert Farmer, Jr.
Frost Brown Todd LLC
2700 Lexington Financial Center
Lexington, KY 40507

Christie L. Pattinson
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

R. Kent Westberry
Landrum & Shouse LLP
400 West Market Street, Suite 1550
Louisville, KY 40202

s/Donetta D. Wiethe
DONETTA D. WIETHE (0028212)
Assistant United States Attorney